

National Security and  
International Affairs Division

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October 11, 1996

Congressional Committees

In accordance with section 8305 of the Federal Acquisition Streamlining Act of 1994 (FASA, P.L. 103-355), we reviewed the government's use of market research. Market research is the process used to collect and analyze data about capabilities in the market that could satisfy an agency's procurement needs. Specifically, we were required to (1) review existing federal government market research efforts regarding commercial items and nondevelopmental items (NDI) and (2) review the feasibility of creating a governmentwide database for storing, retrieving, and analyzing market data.<sup>1</sup>

For purposes of our review, the term "existing market research efforts" includes (1) efforts/practices used for selected contracts awarded during our review and for associated acquisition requirements, which often occurred a year or more earlier and (2) efforts/practices used to implement FASA requirements. As such, the term includes market research done both prior to and after the regulations implementing FASA's market research requirements became mandatory for use, December 1, 1995 (referred to as pre-FASA and post-FASA practices, respectively). To determine market research efforts, we reviewed 21 contracts that were awarded by some of the major federal buying agencies identified in the Federal Procurement Data System.<sup>2</sup> These contracts are not intended to represent a scientific sample. For each contract, we also reviewed available market research information on the acquisition requirements.

We also obtained from government procurement officials and industry procurement officials their views on the feasibility of creating a governmentwide database for storing, retrieving, and analyzing market data.

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<sup>1</sup>FASA, section 8001 (a), and the Federal Acquisition Regulation (FAR) define commercial items more broadly than this term had been defined. Also, the FAR defines NDI to include any previously developed item of supply used exclusively for governmental purposes by a federal agency, a state or local government, or a foreign government with which the United States has a mutual defense cooperation agreement. Unlike FASA, the FAR does not specifically include all commercial items as a subset of NDI. (See app. I for the FAR definitions of commercial items and NDI.)

<sup>2</sup>The Federal Procurement Data System contains governmentwide data on agencies' contract awards. Each executive agency is required to collect and report to this system selected data on contract awards exceeding \$25,000.

Acquisition Reform:  
The Government's  
Market Research  
Efforts

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## Background

Market research has been a statutory requirement for over 10 years, since the passage of the Competition in Contracting Act of 1984, which required the use of market research and procurement planning to promote the use of competitive procedures in federal contracting. The FAR implemented those market research provisions and essentially established market research as a tool for identifying (1) sources to ensure competition and (2) commercial products to meet an agency's needs. Emphasis on the use of market research to identify commercial items has evolved, however, since the 1984 act was enacted. For example, in November 1990, Congress reemphasized market research for the Department of Defense (DOD) in the National Defense Authorization Act for Fiscal Year 1991 (P.L. 101-510). This act sought to encourage DOD to save money and reduce acquisition cycle time by buying products that were commercially available or had already been developed.

FASA, which was enacted on October 13, 1994, reiterated some existing requirements and stipulated additional ones for market research for all federal executive agencies. It requires federal executive agencies to conduct market research before developing new specifications for a procurement and before soliciting bids or proposals for a contract exceeding \$100,000. FASA also requires agencies to use market research results to determine whether commercial items/NDI could meet their needs if either the item or the requirement were modified to some extent. These provisions seek to ensure that agencies' requirements definition and contracting communities are involved in market research and that cost/performance tradeoffs are evaluated up front to encourage the use of commercial items or NDI.

All FASA provisions were to apply no later than October 1, 1995. The officials responsible for incorporating FASA's market research provisions into the FAR, however, made such revisions optional for solicitations issued from October 1 through November 30, 1995, and mandatory for solicitations issued on or after December 1, 1995. The officials explained that the 2-month delay allowed more time for agency officials to be trained and familiarize themselves with the changes in the regulations. Such regulatory changes included (1) the use of note 26 in Commerce Business Daily (CBD) preaward notices as a final check on the government's market research effort<sup>3</sup> and (2) the requirement to identify, via market research,

<sup>3</sup>Note 26 provides that, based on market research results, the government does not plan to solicit the described supplies or services using the FAR's commercial item procedures. As a contracting officer's final check on the ability of the commercial marketplace to respond, the note asks interested parties to identify, within 15 days, their capability to fulfill the government's requirement with a commercial item.

customary commercial practices regarding customizing, modifying, or tailoring of items to meet customer needs and associated costs.

The FAR lists some market research techniques, including (1) contacting knowledgeable individuals in the government and industry regarding market capabilities to meet the acquisition requirements, (2) publishing formal requests for information in appropriate technical journals or business publications, and (3) involving potential offerors in interchange meetings or holding presolicitation conferences early in the acquisition process.

## Results in Brief

Our review of 21 selected contracts and discussions with DOD and civilian agency officials showed that the government's market research efforts varied widely, but the variances appeared to be appropriate. For example, for pre-FASA efforts, DOD emphasized the use of market research for commercial items and NDI more than the civilian agencies did, primarily because of statutory requirements that applied to DOD. However, post-FASA, the civilian agencies we visited have increased their emphasis on market research. In addition, the type and extent of market research varied for the 21 contracts we reviewed. Overall, the agencies (1) obtained commercial items or NDI in 16 of the 21 contracts, although for 3 of the 16, market research was, for legitimate reasons, not performed and (2) used market research to obtain government unique items or services in 5 of the 21 contracts.

At the time of our review, implementation of FASA's market research requirements was underway, but government and industry officials said it would take well over a year after the December 1, 1995, implementation date before the impact of the changes could be realized. For example, in our review of CBD notices published from October 1995 to May 1996, we found that the final check on the government's market research, which the FAR required, generally was not being used. Although officials at most of the activities we contacted said they were not aware of the requirement and would send out policy letters to increase compliance, the Director of Defense Procurement and the General Services Administration's (GSA) Associate Administrator for Acquisition Policy took issue with an across-the-board application of the requirement. They stated that they would take actions to amend the FAR to exempt certain contracts from this requirement.

There is strong opposition to creating a governmentwide, government-maintained database for storing, analyzing, and retrieving market data. Most government and industry officials said that such a database would be too costly to maintain, be hard to keep current, and provide few benefits. They said using the tools available on the Internet appears to be a more practical alternative. For example, some officials stated that powerful search engines are becoming available on the Internet that will likely facilitate market research of private sector and government electronic catalogs. In addition, interactive forums have been placed on the Internet, such as DOD's newly developed Commercial Advocates Forum, that provide useful market research tools and information. Based on our discussions with government and industry officials, and in light of new developments on the Internet, we do not believe that federal agencies should be required, at this time, to create a government-maintained database to store, retrieve, and analyze market data.

## Existing Market Research Varied: Benefits From FASA Changes Expected Later

In general, existing market research efforts and practices relating to commercial items and NDI varied greatly. For example, we found variances in the emphasis DOD and civilian agencies placed on pre-FASA market research. Additionally, our review of selected acquisition requirements and contract awards showed variances in the type and extent of existing market research practices, primarily due to the circumstances surrounding the buy. Such circumstances included the dollar value; nature of the buy (whether it was a new or recurring requirement); and the industry sector or pace of technology changes for the item involved. Variances were also apparent in the use of the results of such research.

Efforts to implement FASA's market research changes are underway. Government and industry officials stated, however, that it will probably take well over a year after the December 1, 1995, implementation of FASA in governmentwide regulations for significant effects of these changes to be apparent. For example, our review of the use of CBD note 26—the government's final check on their market research—showed that it is early in the implementation phase. Specifically, due to a lack of awareness of the FAR requirement, federal agencies and procuring activities were generally not using note 26.

## DOD and Civilian Agencies' Market Research Requirements and Guidance Varied in Emphasis

DOD emphasized market research for commercial items and NDI more than the civilian agency locations we visited. Such emphasis is partly due to additional statutory requirements related to commercial items/NDI and associated market research that have applied to DOD for several years—before FASA made them applicable governmentwide. These included the National Defense Authorization Act for Fiscal Year 1991 (P.L. 101-510). Section 810 of this act required DOD to conduct market research to determine whether an NDI, including a commercial item, was available or could be modified to meet the agency's need before developing a new specification for a developmental item.

As a result of such statutory requirements, DOD, before FASA, had (1) written guidance for its market research process; (2) conducted market research training for specification writers and program managers and their staffs (but not necessarily including contracting officials); (3) established NDI advocates to promote the acquisition of more commercial items and NDI through, among other things, the use of market research; and (4) collected data to measure trends in the procurement of such items.

We did not find as much pre-FASA emphasis on market research within the civilian agencies we visited as in DOD. For example, most did not have separate guidance for commercial/NDI market research, or provide training to their acquisition officials that focused on market research.<sup>4</sup> However, post-FASA, some of the civilian agencies have written market research guidance, developed market research training, and adopted many of DOD's procedures.

## The Type, Extent, and Use of Market Research Varied

Market research was performed for 18 of the 21 contracts we reviewed. The three contracts for which such research was not performed were awarded under exceptions to full and open competition.<sup>5</sup> The market research performed in the 18 remaining contracts varied, primarily based on the complexity of the buy; its nature (whether the buy was to fulfill a

<sup>4</sup>The exception was the Federal Aviation Administration. Pre-FASA, it had provided DOD's NDI guidance, which includes a chapter on market research, as part of its policy order on the use of NDI and, according to agency officials, had provided some training to selected managers and product teams. They did not, however, collect data to measure trends in the procurement of commercial items and NDI.

<sup>5</sup>Full and open competition was not required for one contract because of unusual and compelling urgency and for the remaining two contracts because directed sources had been specified in international agreements. The FAR does not require publication of CBD notices in such circumstances.

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new or recurring requirement); the dollar value of the buy; and the industry sector involved.

For example, the Air Force Electronic Systems Center used a number of market research techniques before finalizing the specification and soliciting offers for one contract totaling \$7.6 million. This contract is for a handheld thermal imager to assist security personnel in assessing the cause of alarms emanating from intrusion detection sensors deployed under the Tactical Automated Security System. Specifically, the Air Force tasked the Sandia National Laboratory to conduct a market survey, which was completed in January 1992. Also, the system program office performed an acquisition requirements tradeoff study in 1993 before establishing the requirement. In addition, program officials regularly used industry trade shows, DOD association meetings, and joint service briefings to assess improvements in handheld thermal imagers. They said that the concentration of industry equipment demonstrations and technical personnel at these meetings afforded ideal conditions to determine the state of the art of thermal imagers and identify industry research and development efforts to address this new operational requirement. Notices seeking sources for the thermal imagers were published in the CBD in April and August 1995, and face-to-face meetings were held with several of the vendors who responded to these notices. A solicitation was issued in September 1995 and a contract was awarded in March 1996 for a modified commercial item.

On the other hand, less complex market research was performed for a new requirement that involved a simpler, lower dollar value procurement. Specifically, this Army Communications and Electronic Command contract was for a commercially available off-the-shelf Asynchronous Transfer Mode Network Analyzer that would be used to test computer network operations. According to program officials, the users were aware of what was available commercially and contacted a number of companies to determine prices and capabilities. The list of companies was provided to the contracting officer, who published a CBD notice for additional sources. The requirement was identified in November 1994 and a \$118,900-contract was awarded for a commercial item in March 1996.

Table II.1 in appendix II presents the results of our review of the 21 contracts by agency or military service command, including a description of the item bought, the dollar value of the contract, the type of requirement (or the nature of the buy), and the types of market research conducted before requirements development and solicitation of offers.

DOD and industry officials have repeatedly stated that DOD's acquisition system must evolve not only to meet national security needs, but also to take advantage of rapid technological changes in industry. Critical items such as computers and electronic components are examples of such rapidly changing technology. Officials from the Army's Communications and Electronic Command and the Air Force's Electronic Systems Center stated that they keep abreast of such changes by holding frequent briefings with industry representatives to exchange information on new developments. At such meetings, industry participants inform participants from the military activities what they are developing and the military services tell industry what they may need. The Electronic Systems Center officials told us that their market research efforts for specific buys do not have to be—and are not—that extensive now because they have kept up with changes in industry and are relying primarily on industry to supply electronic solutions to their needs since most of what they buy are integrated commercial items. They also stated that their solicitations and awards for new items require contractors to use commercial items and components to the maximum extent practical.

Regarding the use of the results of market research in the contracts reviewed, we found evidence that such research was used in 13 of the 21 contracts to obtain commercial items and NDI<sup>6</sup> and in 5 of the 21 contracts to obtain government-unique items or services. In 6 of the 13 contracts, market research identified commercial items/NDI, which ultimately were bought as is. In the other seven contracts, the agencies bought a modified commercial item/NDI. In addition, cost and/or performance tradeoffs were made and acquisition requirements were modified in 6 of the 13 contracts. Table II.2 in appendix II presents the results of the use of market research in these contracts and information regarding tradeoffs on acquisition requirements for the 21 contract actions.

## Post-FASA Implementation Underway, but Results Not Expected Immediately

FASA's enactment has spurred DOD and civilian agencies to make a number of changes relative to market research. For example, post-FASA efforts to implement the new market research requirements have included (1) the Defense Acquisition University's development of a governmentwide satellite training program, for the acquisition workforce, that included modules on market research; (2) the Office of Federal Procurement Policy's (OFPP) efforts to compile a list of available commercial training

<sup>6</sup>There were three other contracts where commercial items were obtained; however, market research was not conducted because the contracts were awarded under an exception to full and open competition, as previously discussed.

courses for market research; (3) the Federal Acquisition Institute's revisions and development of online training materials relating to market research; (4) GSA's compilation of commercial terms and conditions used by 100 of the top Fortune 500 companies; and (5) DOD's issuance of its 1996 5000.1 and 5000.2 acquisition guidance, incorporating FASA's market research changes.

Regarding the development of specifications for a procurement, officials in DOD and the civilian agencies we visited pointed out two significant post-FASA changes (1) a much stronger preference for commercial items and (2) a requirement to determine whether the agency's acquisition requirements should be modified, to a reasonable extent. Aside from this, the only other significant market research-related changes noted by these officials that resulted from the implementation of FASA related to customary commercial practices and use of CBD note 26. These officials stated that market research for developing specifications, as envisioned by FASA, has been performed for years by the technical community, which includes program management officials and specification writers. They further stated that they do not expect a lot of changes to the current market research process or practices they perform as a result of FASA and FAR market research requirements.

Focusing specifically on contracting, as opposed to acquisition requirements and specifications, the contracting officials within DOD and civilian agencies noted that the market research they normally perform will not be just a product/sources search as in the past. Instead, FAR now states that the contracting officer should identify the customary

- commercial terms and conditions for the item being bought;
- practices regarding customizing, modifying, or tailoring of items to meet customer needs;
- practices regarding buyer financing and warranty terms; and
- practices of the commercial sector, in general, so that the contracting officer can tailor the FAR clauses to be consistent with commercial practices.

Most of the procurement officials we spoke with did not believe there were any standard terms, conditions, or practices industrywide. Although early efforts were being made to identify customary commercial practices, and terms and conditions associated with particular items, officials we spoke with stated, for the most part, vendors' proposals and subsequent

negotiations with offerors will probably continue to be used to determine such information.

Most of the acquisition and procurement officials we contacted in DOD, the civilian agencies, and the industry were unable to provide us with examples of any significant effects of the FASA market research changes. These officials stated that the significant effects of such changes will not be apparent for at least a year after governmentwide regulatory implementation. They also noted that, during the first year of implementation, training will be needed and, once that training is conducted, the benefits of such training will not show up for quite sometime thereafter.

## CBD Note 26 Is Generally Not Being Used

Numbered note 26 states that:

"Based upon market research, the Government is not using the policies contained in Part 12,<sup>7</sup> Acquisition of Commercial Items, in its solicitation for the described supplies or services. However, interested persons may identify to the contracting officer their interest and capability to satisfy the Government's requirement with a commercial item within 15 days of this notice."

From October 1, 1995, through May 7, 1996, only 58 of over 2,500 DOD and civilian contracting activities used numbered note 26 in a total of 151 CBD notices of solicitations. The 151 notices represented only a small fraction of the total number of solicitation notices that were published during that 7-month period. Appendix III lists the DOD and civilian contracting activities that used the note and the number of CBD announcements with note 26.

We contacted four activities—the Army's Communications and Electronics Command, the Navy's Naval Sea Systems Command, and the Air Force's Electronic Systems Center and Wright-Patterson Air Force Base—to find out why they were not using the note. They told us, essentially, that (1) this requirement had been overlooked and (2) they would emphasize it to their contracting staff in future policy letters. We brought this to the attention of officials in OFPP, GSA, and DOD. Although these officials acknowledged that the regulation writers may have intended for note 26 to be used as a final check on the government's

<sup>7</sup>FAR part 12 contains policies and procedures unique to the acquisition of commercial items. It includes (1) standard provisions and clauses for use in such buys, (2) a list of laws inapplicable to executive agency prime contracts for commercial item buys, and (3) streamlined procedures for soliciting offers and awarding contracts for commercial items.

market research, some DOD and GSA officials objected to an across-the-board use of the note as such a check.

DOD officials stated that because a number of their items are military-unique, the note would have to go into hundreds of thousands of their notices of solicitation and that this may not be practical. GSA officials stated that certain services, such as construction and architecture and engineering are already covered under a different part of the FAR that reflects current commercial practices in these areas. These officials said that use of the note in all acquisitions, including construction and architecture and engineering services, would place an unnecessary burden on contracting officials, who would have to evaluate all responses to the note. Both the DOD and GSA officials stated that they would take actions to exempt these types of contracts from the note 26 requirement.<sup>8</sup>

Although some DOD officials have expressed concern over the use of numbered note 26, DOD, when commenting on a draft of this report, stated that it does not currently plan to change its market research process or practices that have been implemented under FASA, unless its process measurements in this area indicate a need to do so. GSA, in its comments on our draft report, stated that the issue of an across-the-board application of number note 26 is being reviewed by the FAR Commercial Contracting Drafting Team as part of its efforts to address related questions that have arisen. The Environmental Protection Agency (EPA), in its comments on our draft report, stated it had reminded its contracting staff of the requirement to use numbered note 26.

## Broad Consensus Against a Government- maintained Database, but Other Ideas Might Be Helpful

Government and industry officials have provided varied opinions on the possibility of creating a governmentwide database for storing, retrieving, and analyzing market data. However, most of them opposed the creation of a comprehensive, governmentwide, and government-maintained database. They said it would (1) be too costly for such a database to contain information comprehensive enough to cover the spectrum of potential federal government procurements, (2) take enormous amounts of funding and staffing resources to maintain, (3) not likely be kept current, and (4) provide few benefits.

<sup>8</sup>A regulatory drafting team is currently considering additional commercial item issues not addressed in the implementation of FASA. Among other things, the team is looking at the relationship between FAR Part 12, Acquisition of Commercial Items and FAR Part 36, Construction and Architect-Engineer Contracts.

In addition, there were varied opinions on what such a database should contain that would truly facilitate market research. Some officials indicated that information on the following would be helpful (1) products available in industry and previously developed for other agencies; (2) past acquisitions made by the government, such as the data that is currently included in the Federal Procurement Data System; and/or (3) commercial terms and conditions associated with a particular item.

We found that the Army's Communication and Electronics Command had used a self-developed commercial and NDI product database for approximately 6 years. However, the Command eventually terminated the system because it was never current, due to rapid advances in electronic technology and cost too much to maintain—about \$500,000 annually. According to Command officials, the activity decided to use DATAPRO—an industry firm that provides some of the same information they were trying to maintain, but in a more up-to-date manner.

We also talked with officials from selected private sector firms about their market research efforts, companywide databases that would facilitate market research, and their views on the feasibility of a governmentwide, government-maintained database to facilitate market research. They said such a database is feasible but would be difficult to maintain and would be costly. They noted that their companies have or are generating companywide databases to provide prior procurement information, which is similar to the data in the Federal Procurement Data System and in individual government buying activities.

In contrast to the reaction against a government-maintained database, many of the government and industry officials we spoke with favored other technology-related ideas to facilitate market research. In fact, some officials stated that private industry through the Internet—a global “network of networks,” which in 1995 linked over 59,000 networks, 2.2 million computer systems, and 15 million users in 92 countries—should be the vehicle used to provide market research information. They also stated that any of the previously suggested types of information (product data, terms and conditions, or data on past acquisitions) could be accessed from the Internet. These officials noted that the Internet is becoming a popular forum for providing federal acquisition information, and that private industry has started to use the Internet to list their products and services and, in some cases, to provide extensive commercial catalogs.

For example, OFPP officials and others pointed out that powerful "search engines" are becoming available on the Internet that will facilitate market research of private sector and government electronic catalogs. In commenting on a draft of this report, OFPP officials noted that they had provided guidance for the major procuring agencies to promote the use of the Internet for market research. In addition, DOD officials said the Internet could facilitate greater use of common databases across military service lines as agencies place such information on their Internet home pages.

Currently, there are a number of federal initiatives related to the Internet and its use to facilitate market research. These include

- DOD's Commercial Advocates Forum, which was created as an interactive forum to provide tools for searching government and private sector catalogs, assist DOD officials in identifying commercial terms and conditions, and provide other market research information—such as lessons learned and best practices;
- the Interagency Acquisition Internet Council, which seeks, among other things, to promote federal agencies' use of the Internet as a virtual marketplace and its use as a market research tool;<sup>9</sup> and
- various agencies' use of the Internet to publicize their future acquisition plans.

The DOD Commercial Advocates Forum, for example, contains a market research "icon" where DOD officials can access DOD regulations related to market research, best practices in this area, and a "toolbox" of aids to assist in market research. Specifically, the toolbox contains a number of items such as (1) the Thomas Register of American Manufacturers, which provides sourcing information on nearly 52,000 industrial products and services as well as specifications and availability information from thousands of manufacturers; (2) the Dunn and Bradstreet Catalog, which identifies and assists in evaluating potential suppliers based on purchasing needs; and (3) the Frost and Sullivan Report, a large market research consulting firm that provides market research information and reports on over 20 key industries. According to the developers of the commercial advocates' forum, the listings in the toolbox are of organizations that provide information on suppliers and linkages to those suppliers' catalogs. These tools can all be utilized by the contracting and requirement officials in performing market research.

<sup>9</sup>The Interagency Acquisition Internet Council has just begun its efforts. Although not a priority item, Council officials told us they plan to review market research at a later date.

In light of these Internet initiatives and the strong consensus against the database, we do not believe that federal agencies should be required, at this time, to create a comprehensive, governmentwide, and government-maintained database to store, retrieve, and analyze market data.

## Scope and Methodology

We performed our work in agencies that were listed in the Federal Procurement Data System as large buyers of goods and services. These included DOD, GSA, the National Aeronautics and Space Administration (NASA), EPA, and the Department of Transportation (the Federal Aviation Administration and the Coast Guard). More specifically, we interviewed officials from (1) the Naval Sea Systems Command and the Space and Naval Warfare Systems Command; (2) the Office of the Assistant Secretary of the Army for Acquisition, Research, and Development, the Army Contract Support Office, and Communications and Electronics Command; (3) the Air Force's headquarters Office of the Deputy Assistant Secretary for Contracting—the FAR Systems, Wright-Patterson Air Force Base, and Hanscom's Electronic Systems Center; (4) the Defense Logistics Agency's Defense Fuel Supply Center, Defense Electronics Supply Center, Defense General Supply Center, Defense Personnel Support Center, Defense Construction Supply Center, and Defense Industrial Supply Center; and (5) NASA's Goddard Space Center. We interviewed officials from these organizations regarding (1) pre-FASA market research practices; (2) planned changes under FASA and the new FAR; and (3) the feasibility of creating a governmentwide database to store, retrieve, and analyze market data.

We also reviewed a judgmental sample of contracts awarded during our audit work (October 1995 through July 1996) by some of the major buying activities listed above. We selected, from these activities, contracts that varied in dollar amount, complexity, and industry sector to provide descriptive market research information for a variety of procurements. This sample was not intended to be a scientific sample.

In addition, we interviewed officials from OFPP, as well as industry officials about (1) the changes related to market research and the procurement of commercial items and (2) the feasibility of creating a governmentwide database for market data. Industry officials were from Lockheed Martin; McDonnell Douglas Corporation; International Business Machines Corporation; INPUT—a market research organization; the Computer and Communications Industry Association; the Computer Business and

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Equipment Manufacturers' Association; the Aerospace Industries Association; and the Electronics Industry Association. In addition, we reviewed prior reports, hearings, studies, and selected market surveys/investigations relating to the government's efforts to identify commercial items and NDI.

We also reviewed (1) the draft and final versions of the new market research provisions in the FAR, along with comments provided by the various federal agencies and industry organizations and (2) agency guidance related to market research, such as the new DOD series 5000.1, entitled "Defense Acquisition" and 5000.2-R, entitled "Mandatory Procedures for Major Defense Acquisition Programs and Major Automated Information System Acquisition Programs," both dated March 15, 1996. We also observed several demonstrations by agency officials of market research tools on the Internet and obtained various market research documentation from the Internet.

Section 8305 of FASA also required us to make "... any recommendations for changes in law or regulations that the Comptroller General considers appropriate." Since it is early in the implementation of the FAR market research changes and the results from such changes are not expected until a year after implementation, we have no changes to recommend at this time. We conducted our review between October 1995 and July 1996 in accordance with generally accepted government auditing standards.

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## Agency Comments


In commenting on a draft of this report, DOD, EPA, GSA, NASA, and OFPP generally agreed with the information in the report. Each made some suggestions to improve the clarity and technical accuracy of the report and we have incorporated them in the text where appropriate. DOD and NASA submitted written comments, and the other agencies submitted theirs orally. DOD's and NASA's comments are reprinted in appendixes IV and V, respectively.

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We are sending copies of this report to the Director, Office of Management and Budget; the Secretary of Defense; the Administrator of OFPP; the Administrator of NASA; the Administrator of GSA; the Administrator of EPA; and other interested congressional committees. We will also make copies available to others upon request.

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Please contact me or my Associate Director, David E. Cooper, at (202) 512-4841 if you or your staff have any questions concerning this report. Major contributors to this report are listed in appendix VI.

A handwritten signature in cursive script, reading "Louis J. Rodrigues". The signature is written in dark ink and is positioned above the printed name and title.

Louis J. Rodrigues  
Director, Defense Acquisitions Issues

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List of Congressional Committees

The Honorable Ted Stevens  
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The Honorable John Glenn  
Ranking Minority Member  
Committee on Governmental Affairs  
United States Senate

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The Honorable Jan Meyers  
Chairwoman  
The Honorable John J. LaFalce  
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Committee on Small Business  
House of Representatives



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**Abbreviations**

CBD	Commerce Business Daily
DOD	Department of Defense
EPA	Environmental Protection Agency
FAR	Federal Acquisition Regulation
FASA	Federal Acquisition Streamlining Act of 1994
GSA	General Services Administration
NASA	National Aeronautics and Space Administration
NDI	nondevelopmental item
OFPP	Office of Federal Procurement Policy

# Federal Acquisition Regulation's Definition for Commercial Items and Nondevelopmental Items

In accordance with the Federal Acquisition Regulation (FAR) part 2.101, "Commercial item" means:

- (a) "Any item, other than real property, that is of a type customarily used for nongovernmental purposes and that— (1) Has been sold, leased, or licensed to the general public; or, (2) Has been offered for sale, lease, or license to the general public;
- (b) "Any item that evolved from an item described in paragraph (a) of this definition through advances in technology or performance and that is not yet available in the commercial marketplace, but will be available in the commercial marketplace in time to satisfy the delivery requirements under a Government solicitation;
- (c) "Any item that would satisfy a criterion expressed in paragraphs (a) or (b) of this definition, but for— (1) Modifications of a type customarily available in the commercial marketplace; or (2) Minor modifications of a type not customarily available in the commercial marketplace made to meet Federal Government requirements. "Minor" modifications means modifications that do not significantly alter the nongovernmental function or essential physical characteristics of an item or component, or change the purpose of a process. Factors to be considered in determining whether a modification is minor include the value and size of the modification and the comparative value and size of the final product. Dollar values and percentages may be used as guideposts, but are not conclusive evidence that a modification is minor;
- (d) "Any combination of items meeting the requirements of paragraphs (a), (b), (c), or (e) of this definition that are of a type customarily combined and sold in combination to the general public;
- (e) "Installation services, maintenance services, repair services, training services, and other services if such services are procured for support of an item referred to in paragraphs (a), (b), (c), or (d) of this definition, and if the source of such services— (1) Offers such services to the general public and the Federal Government contemporaneously and under similar terms and conditions; and (2) Offers to use the same work force for providing the Federal Government with such services as the source uses for providing such services to the general public;
- (f) "Services of a type offered and sold competitively in substantial quantities in the commercial marketplace based on established catalog or market prices for specific tasks performed under standard commercial terms and conditions. This does not include services that are sold based on hourly rates without an established catalog or market price for a specific service performed;

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**Appendix I**  
**Federal Acquisition Regulation's Definition**  
**for Commercial Items and**  
**Nondevelopmental Items**

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(g) "Any item, combination of items, or service referred to in paragraphs (a) through (f), notwithstanding the fact that the item, combination of items, or service is transferred between or among separate divisions, subsidiaries, or affiliates of a contractor; or

(h) "A nondevelopmental item, if the procuring agency determines the item was developed exclusively at private expense and sold in substantial quantities, on a competitive basis, to multiple State and local governments."

FAR 2.101 defines "nondevelopmental items" to mean:

(a) "Any previously developed item of supply used exclusively for governmental purposes by a Federal agency, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement;

(b) "Any item described in paragraph (a) of this definition that requires only minor modification or modifications of a type customarily available in the commercial market place in order to meet the requirements of the procuring department or agency; or

(c) "Any item of supply being produced that does not meet the requirements of paragraph (a) or (b) solely because the item is not yet in use."

# Market Research Efforts and Results for the 21 Contracts Reviewed

Table II.1 shows the market research efforts in developing requirements and increasing competition. Table II.2 shows the results of the market research efforts for the 21 contracts we reviewed.

**Table II.1: Market Research Efforts in Developing Requirements and Increasing Competition**

Dollars in thousands

Contract description	Contract amount	Type of requirement	Market research conducted prior to finalizing the specification for the current contract	Market research conducted to identify sources for competition <sup>a</sup>
<b>U.S. Army Communication and Electronic Command</b>				
Near-term digital radio	\$10,700.0	Enhancement <sup>b</sup>	Draft RFP, face-to-face meetings with vendors, broad agency announcement, technical demonstration, and presolicitation conferences	<u>CBD</u> notice
Family of loudspeakers	1,787.1	Enhancement	Market investigation reports, draft RFP, informal discussions with industry, and presolicitation conferences	<u>CBD</u> notice
Asynchronous transfer mode test system	118.9	New	Product literature	<u>CBD</u> notice
Radiosonde set	240.0	Recurring	None	<u>CBD</u> notice
SINCGARS handheld remote control	5,165.8	Enhancement	Draft RFP, sample testing, market survey, and informal discussions	<u>CBD</u> notice
Night vision goggles	26,013.6	Enhancement	Trade journals, sources sought <u>CBD</u> notice, draft RFP, face-to-face meetings with vendors, and prototypes testing	<u>CBD</u> notice, preproposal conference, and sample hardware
<b>U.S. Army Aviation and Troop Command</b>				
Diesel engine	8,010.2	Recurring	None	Procurement history, <u>CBD</u> notice, and competition advocates shopping list
Modular base petroleum laboratory	4,467.8	Enhancement	Literature search, contacting industry officials, and market investigation	Procurement history and <u>CBD</u> notice
Hydraulic impact wrench	397.0	Recurring	None	Procurement history and <u>CBD</u> notice
<b>Naval Sea Systems Command</b>				
Trident battery	1,879.5	Recurring	None	<u>CBD</u> notice
AN/SRQ-4 radio	5,519.5	Recurring	Sources sought and presolicitation conferences	<u>CBD</u> notice and procurement history

(continued)

**Appendix II  
Market Research Efforts and Results for the  
21 Contracts Reviewed**

Dollars in thousands

<b>Contract description</b>	<b>Contract amount</b>	<b>Type of requirement</b>	<b>Market research conducted prior to finalizing the specification for the current contract</b>	<b>Market research conducted to identify sources for competition<sup>a</sup></b>
<b>U.S. Air Force Electronic Systems Center</b>				
Research and development services for information warfare	\$900.0	New	Broad agency announcement	None <sup>c</sup>
Mission planning workstations	7,556.1	New	None <sup>d</sup>	None <sup>d</sup>
Transmission and receive stations	163.0	Recurring	None	None <sup>e</sup>
Handheld thermal imager	7,629.7	New	Market surveys, symposiums and trade shows, sources sought notices, and face-to-face meetings with industry	<u>CBD</u> and EBB notices
Research and development on computer network high speed potential	1,611.9	New	Broad agency announcement	None
Landsat upgrade	1,700.0	Enhancement	None <sup>f</sup>	None <sup>f</sup>
<b>NASA Goddard Space Center</b>				
Medium-light expendable launch vehicle services	167,568.7	New	Industry symposium, one-on-one meetings with vendors, draft RFP	<u>CBD</u> notice
Digital matrix switches	10,000.0	New	Trade journals, keeping abreast of technology	Procurement history and past performance history <sup>g</sup>
Optical detector	220.0	New	Face-to-face meetings, reviewing catalogs, and contacting industry for informal proposals	<u>CBD</u> notice
<b>Environmental Protection Agency</b>				
Technical support services	1,905.5	Recurring	None	<u>CBD</u> notice

(Table notes on next page)

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**Appendix II**  
**Market Research Efforts and Results for the**  
**21 Contracts Reviewed**

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Note: CBD is the Commerce Business Daily.

RFP is request for proposals.

EBB is electronic bulletin board.

SINGARS is Single Channel Ground Airborne Radio System.

NASA is National Aeronautics and Space Administration.

<sup>a</sup>The CBD notices identified in this column publicized solicitations of bids and proposals for property or services over \$25,000 and are required by 41 U.S.C. 416.

<sup>b</sup>Enhancement means an upgrade to an already existing requirement.

<sup>c</sup>This contract is a research effort by the Defense Advanced Research Project Agency to advance computer simulation technologies. A broad agency announcement was published in February 1995, and a contract was awarded based on information submitted in response to that announcement.

<sup>d</sup>Market research was not conducted at the requirements stage of the acquisition, and no solicitation was published because this was an international agreement and such actions are not required by 10 U.S.C. 2304(c)(4). Sources were directed in a letter of offer and acceptance.

<sup>e</sup>This contract was for commercial communications equipment for use in support of Operation Joint Endeavor in Bosnia. The buy was made under other than full and open competition due to unusual and compelling urgency by 10 U.S.C. 2304(c)(2).

<sup>f</sup>A market survey was done on the prior system to determine the availability of ground station for receiving multispectral satellite imagery from the French satellite. An international agreement was subsequently written, and no market research was done for the enhancement.

<sup>g</sup>This contract was awarded under section 8(a) of the Small Business Act.

**Appendix II  
Market Research Efforts and Results for the  
21 Contracts Reviewed**

**Table II.2: Results of Market Research Efforts**

Dollars in thousands

Contract description	Contract amount	Type of requirement	Tradeoffs made	Categories of items acquired		
				Commercial item/service obtained	NDI	Government-unique item/service
U.S. Army Communications-Electronics Command						
Near-term digital radio	\$10,700.0	Enhancement	Yes		X <sup>a</sup> (modified)	
Family of loudspeakers	1,787.1	Enhancement	Yes	X <sup>b</sup> (modified)		
Asynchronous transfer mode test system	118.9	New	No	X		
Radiosonde set	240.0	Recurring	No	X		
SINCGARS handheld remote control	5,165.8	Enhancement	No		X <sup>c</sup> (modified)	
Night vision goggles	26,013.6	Enhancement	Yes		X <sup>d</sup> (modified)	
U.S. Army Aviation and Troop Command						
Diesel engine	8,010.2	Recurring	Yes	X (modified)		
Modular base petroleum laboratory	4,467.8	Enhancement	No		X(modified)	
Hydraulic impact wrench	397.0	Recurring	No	X		
Naval Sea Systems Command						
Trident battery	1,879.5	Recurring	No		X	
AN/SRQ-4 radio	5,519.5	Recurring	No		X <sup>e</sup>	
U.S. Air Force Electronic Systems Center						
Research and development services for information warfare	900.0	New	No			Research <sup>f</sup>
Mission planning workstations	7,556.1	New	No	X <sup>g</sup> (modified)		
Transmission and receive stations	163.0	Recurring	No	X (modified)		
Handheld thermal imager	7,629.7	New	Yes	X (modified)		
Research and development on computer network high speed potential	1,611.9	New	No			Research <sup>h</sup>
Landsat upgrade	1,700.0	Enhancement	No	X (modified)		

(continued)

**Appendix II**  
**Market Research Efforts and Results for the**  
**21 Contracts Reviewed**

Dollars in thousands

Contract description	Contract amount	Type of requirement	Tradeoffs made	Categories of items acquired		
				Commercial item/service obtained	NDI	Government-unique item/service
NASA Goddard Space Center						
Medium-light expendable launch vehicle services	\$167,568.7	New	No			X (government-unique service and development required)
Digital matrix switches	10,000.0	New	Yes	X		
Optical detector	220.0	New	No			X (new development)
Environmental Protection Agency						
Technical support services	1,905.5	Recurring	No			X

<sup>a</sup>According to program officials, the near-term digital radio was derived from the Enhanced Position Location Reporting System and upgraded to include the current communication technology and open architecture. It is considered a modified nondevelopmental item (NDI) by program officials. Also, according to program officials, it is 95 percent commercial software and 60 percent commercial hardware. It has embedded communication security, however, which no other product in the industry has.

<sup>b</sup>Most of the components in the family of loudspeakers, per program officials, are commercially available products but are packaged and integrated to meet military requirements.

<sup>c</sup>Program officials stated that 90 percent of the electronics in the handset are commercial and that the effort to integrate commercial components into the existing system is considered to be part of the development phase.

<sup>d</sup>Program officials stated that this buy includes (1) night vision goggles and imaging systems that have been bought for 10 years with a new/enhanced "image intensifier" from industry and (2) a commercial off-the-shelf monocular device that had minor modifications.

<sup>e</sup>The AN/SRQ was originally bought in 1975 for the Light Airborne Multi-Purpose System III helicopter. It was required in this procurement for the DDG-51 and was classified as an NDI by program officials.

<sup>f</sup>This contract is for research only into computer simulation technology.

<sup>g</sup>The software was modified in this contract to talk with the Egyptian F16.

<sup>h</sup>This is for a research and development action, not a supply contract. The only physical deliverables are prototypes of advance computer network devices.

# DOD and Civilian Agencies That Used Numbered Note 26

Table III.1 shows the Department of Defense (DOD) contracting activities that used numbered note 26 and the number of CBD announcements with note 26. Table III.2 provides the same information for the civilian activities.

**Table III.1: DOD Contracting Activities That Used Note 26 (Oct. 1, 1995, through May 7, 1996)**

Contracting activity	Number of CBD announcements
Randolph Air Force Base, Texas	1
Air Logistics Command, Kelly Air Force Base, Texas	1
C-17 Aircraft Contracting Division, Kelly Air Force Base, Texas	1
Eglin Air Force Base, Florida	1
U.S. Army Engineering District, Sacramento, California	1
Army Training and Doctrine Command, Fort Eustis, Virginia	1
Army Aviation and Troop Command, St. Louis, Missouri	32
Army Missile Command, Redstone Arsenal, Alabama	1
Army Engineering & Support Center, Huntsville, Alabama	1
Army White Sands Missile Range, New Mexico	5
Fort Campbell, Kentucky	1
U.S. Army Intelligence and Security Command, Fort Belvoir, Virginia	1
Letterkenny Army Depot, Chambersburg, Pennsylvania	1
Defense Information Systems Agency, Arlington, Virginia	1
Defense Advance Research Project Agency, Arlington, Virginia	1
Fleet and Industrial Supply Center Norfolk, Washington, D.C.	4
Fleet and Industrial Supply Center Norfolk, Philadelphia, Pennsylvania	3
Fleet and Industrial Supply Center, San Diego, California	8
Naval Air Warfare Center Training Systems Division, Orlando, Florida	1
Naval Medical Logistics Command, Fort Detrick, Frederick, Maryland	1
Naval Research Laboratory, Washington, D.C.	8
Naval Surface Warfare Center, Crane, Indiana	1
Coastal Systems Station, Dahlgren Division, Panama, Florida	1
Naval Command, Control and Ocean Surveillance Command, Research, Development, Test and Evaluation Division, San Diego, California	1
<b>Total</b>	<b>78</b>

**Appendix III**  
**DOD and Civilian Agencies That Used**  
**Numbered Note 26**

**Table III.2: Civilian Contracting**  
**Activities That Used CBD Note 26**  
**(Oct. 1, 1995, through May 7, 1996)**

<b>Civilian contracting activity</b>	<b>Number of CBD announcements</b>
American Embassies (nine different locations) <sup>a</sup>	9
Bureau of Land Management, Denver, Colorado	2
Bureau of Reclamation, Boise, Idaho	4
Federal Aviation Administration, Washington, D.C.	1
GSA, Ft. Worth, Texas	2
NASA Langley Research Center, Hampton, Virginia.	1
NASA Stennis Space Center, Mississippi	1
National Institute of Health, Bethesda, Maryland	9
National Institute of Standards and Technology, Gaithersburg, Maryland	3
National Library of Medicine, Bethesda, Maryland	1
Social Security Administration, Philadelphia, Pennsylvania	1
U.S. Coast Guard Academy, New London, Connecticut	2
U.S. Coast Guard Aircraft Repair & Supply Center, Elizabeth City, North Carolina	2
U.S. Coast Guard Maintenance and Logistics Command Pacific, Alameda, California	5
U.S. Coast Guard Supply Center Curtis Bay, Baltimore, Maryland	8
U.S. Coast Guard Supply Center Baltimore, Baltimore, Maryland	4
U.S. Department of Agriculture, Forest Service, Umpqua National Forest, Roseburg, Oregon	3
U.S. Department of Agriculture, Forest Service, Kootenai National Forest, Libby, Montana	5
U.S. Department of Commerce, Boulder, Colorado	1
U.S. Department of Interior, Office of Aircraft Services, Boise, Idaho	1
U.S. Department of Labor, Washington, D.C.	1
U.S. Geological Survey, Denver, Colorado	1
U.S. Geological Survey, Reston, Virginia	2
U.S. Secret Service, Washington, D.C.	2
U.S. Department of Veterans' Affairs, Medical Center, Dublin, Georgia	1
U.S. Department of Veterans' Affairs, Medical Center, Poplar Bluff, Missouri	1
<b>Total</b>	<b>73</b>

<sup>a</sup>One CBD announcement was published from each of the following American embassy locations: Lagos, Nigeria; Panama City, Panama; Buenos Aires, Argentina; Santo Domingo, Dominican Republic; Manila, Philippines; Papua New Guinea; Kinshasa, Zaire; Copenhagen, Denmark; and The Hague, The Netherlands.

# Comments From the Department of Defense



ACQUISITION AND  
TECHNOLOGY

## OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON  
WASHINGTON DC 20301-3000



12 SEP 1996

Mr. David E. Cooper  
Associate Director  
Defense Acquisition Issues  
National Security and International  
Affairs Division  
U.S. General Accounting Office  
Washington, DC 20548

Dear Mr. Cooper:

Thank you for giving the Department of Defense (DoD) an opportunity to respond to the General Accounting Office (GAO) draft report, "ACQUISITION REFORM: The Government's Market Research Efforts," dated August 28, 1996 (GAO Code 705114/OSD Case 1215).

We reviewed the report and, as highlighted in your report, the Deputy Under Secretary of Defense (Acquisition Reform) initiated a market research segment as part of the Commercial Advocates Forum. Depending on our related metrics measurement in this regard, the Department currently does not plan to change our market research process or practices that have been implemented under the provisions of the Federal Acquisition Streamlining Act of 1994.

Technical corrections to the report were provided separately.

Sincerely,

William E. Mounts  
Director, International and Commercial  
Systems Acquisition



# Comments From the National Aeronautics and Space Administration

National Aeronautics and  
Space Administration  
**Office of the Administrator**  
Washington, DC 20546-0001



SEP 9 1996

Mr. David E. Cooper  
Associate Director, Defense  
Acquisitions Issues  
U.S. General Accounting Office  
Washington, DC 20548

Dear Mr. Cooper:

Thank you for your letter of August 28, 1996, offering NASA the opportunity to provide comments on your draft report entitled Acquisition Reform: The Government's Market Research Efforts (GAO/NSIAD-96-215).

We have no changes to suggest to the draft report. Pages 15 to 17 of your report indicate that the Internet can be a resource for identifying products and services of interest to Contracting Officers. We agree that the Internet has become an important marketplace for conducting Government acquisitions. For example, we publicize on the Internet every competitive acquisition over \$25,000. The Internet will enable procurement offices to select and deliver products and services to Government customers more quickly.

If you have any questions or require additional information, please contact David Beck on (202) 358-0482.

Sincerely,

  
J. R. Bailey  
Acting Deputy Administrator

Now on pp. 11 to 13.

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